

House File 199 - Introduced

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GASKILL

A BILL FOR

1 An Act establishing a parole procedure for certain class "A"
2 felons.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 902.1, Code 2011, is amended to read as
2 follows:

3 **902.1 Class "A" felony.**

4 1. Upon a plea of guilty, a verdict of guilty, or a special
5 verdict upon which a judgment of conviction of a class "A"
6 felony may be rendered, the court shall enter a judgment of
7 conviction and shall commit the defendant into the custody of
8 the director of the Iowa department of corrections for the rest
9 of the defendant's life. Nothing in the Iowa corrections code
10 pertaining to deferred judgment, deferred sentence, suspended
11 sentence, or reconsideration of sentence applies to a class "A"
12 felony, and a person convicted of a class "A" felony shall not
13 be released on parole unless the governor commutes the sentence
14 to a term of years.

15 2. Notwithstanding subsection 1, a person may be released on
16 parole or work release pursuant to the procedures in section
17 902.1A if the person was under the age of eighteen at the time
18 the class "A" felony offense was committed.

19 **Sec. 2. NEW SECTION. 902.1A Class "A" felony — application**
20 **for review of sentence.**

21 1. As used in this section:

22 *a.* "Board" means the board of parole.

23 *b.* "Director" means the director of the department of
24 corrections.

25 2. After serving a period of incarceration of fifteen
26 years of a class "A" felony sentence, a person who was under
27 the age of eighteen at the time the offense was committed may
28 submit an application for review of sentence with the person's
29 counselor who shall then file the application with the director
30 or the director's designee within thirty days of receiving the
31 application.

32 3. Earned time accrued pursuant to chapter 903A shall not
33 be used to reduce the fifteen-year period-of-incarceration
34 requirement pursuant to subsection 2.

35 4. The applicant may use the assistance of an attorney in

1 preparing the application, at the applicant's expense.

2 5. The counselor may attach comments to the application and
3 shall ensure that the application filed with the director or
4 the director's designee contains the following information:

- 5 a. Criminal history.
- 6 b. Disciplinary history.
- 7 c. Supplementary treatment program record.
- 8 d. Mental health evaluations.
- 9 e. Social evaluations.
- 10 f. Evidence of physical or drug abuse prior to the offense.
- 11 g. Any other information considered relevant to the
12 application.

13 6. The applicant shall have access to all information
14 contained in the application.

15 7. The director or the director's designee shall conduct
16 a review of the application within sixty days of receiving
17 the application. The director or the director's designee
18 shall make written findings and recommendations based upon
19 the application. The findings and recommendations shall be
20 clearly stated and supported by evidence in the application.
21 The applicant shall be provided a copy of the findings and
22 recommendations of the director or the director's designee.

23 8. The board shall review the application and the written
24 findings and recommendations of the director or the director's
25 designee.

26 9. When making a determination to grant or deny parole or
27 work release, the board shall consider the following factors:

- 28 a. The age and level of maturity of the applicant at the
29 time the offense was committed.
- 30 b. The applicant's susceptibility to outside pressures at
31 the time the offense was committed.
- 32 c. The potential for rehabilitation at the time of the
33 application.
- 34 d. The nature and severity of the offense.
- 35 e. Prior juvenile and criminal history.

1 *f.* Overall behavioral record while incarcerated including
2 participation in prison programming and cooperation with prison
3 staff.

4 *g.* The likelihood that the applicant will commit other
5 offenses if released.

6 10. If a majority of the members of the board consider the
7 applicant eligible for parole or work release, the board shall
8 set a hearing on the application. The board shall provide
9 at least fifteen days' notice of the hearing to the attorney
10 general and to any victim of the class "A" felony offense.

11 11. At the hearing and after review of any information
12 provided by the attorney general and any victim, the board may
13 grant parole or work release to an applicant pursuant to the
14 procedures under chapter 906. The board shall establish the
15 term of the parole or work release at the time of granting
16 parole or work release.

17 12. The decision to grant or deny parole or work release
18 shall be in writing and shall be supported by findings and
19 reasons for granting or denying parole or work release based
20 upon the factors enumerated in subsection 9.

21 13. A decision of the board granting or denying parole or
22 work release pursuant to this section constitutes a contested
23 case subject to judicial review pursuant to chapter 17A.

24 14. A person is eligible to submit a new application every
25 two years to the person's counselor pursuant to subsection 2.

26 15. An application filed pursuant to this section shall not
27 affect any other proceedings or procedures available to the
28 applicant.

29 16. The board shall prescribe the application form to be
30 used pursuant to this section, and shall prescribe the form for
31 counselor comments and for the findings and recommendations of
32 the director or director's designee.

33 EXPLANATION

34 This bill establishes a parole procedure for certain class
35 "A" felons.

1 The bill provides that a person serving a class "A" felony
2 sentence who committed the offense when under 18 years of
3 age may file an application for review of the sentence after
4 serving 15 years of the sentence. Earned time accrued pursuant
5 to Code chapter 903A shall not be used to reduce the 15-year
6 period-of-incarceration requirement under the bill.

7 The bill provides that the person shall submit the
8 application to the person's counselor, who then is required to
9 file the application with the director of the department of
10 corrections or the director's designee within 30 days.

11 Under the bill, the counselor may attach comments to the
12 application and is required to ensure the application contains
13 all the relevant histories of the applicant and any other
14 information considered relevant.

15 The bill requires the director of the department of
16 corrections or the director's designee to make written findings
17 and recommendations based upon the application within 60 days
18 of receiving the application. The findings and recommendations
19 shall be clearly stated and supported by evidence in the
20 application. The applicant shall be provided a copy of the
21 written findings and recommendations.

22 Under the bill, the board of parole shall review the
23 application and written findings and recommendations of
24 the director or the director's designee. The bill requires
25 that the board of parole consider the following factors when
26 determining whether to grant or deny parole or work release to
27 the applicant: the age and maturity level of the applicant
28 at the time the offense was committed; the applicant's
29 susceptibility to outside pressures at the time the offense was
30 committed; the potential for rehabilitation; the nature and
31 severity of the offense; prior juvenile and criminal history;
32 the overall behavioral record while incarcerated; and the
33 likelihood to commit other offenses if released.

34 The bill provides that if a majority of board of parole
35 members consider the applicant parole or work release eligible,

1 the board shall set a parole hearing on the application. The
2 bill requires the board to provide a minimum of 15 days' notice
3 of any hearing to the attorney general and any victim of the
4 offense.

5 The bill provides that at the parole hearing and after
6 review of any information provided by the attorney general and
7 any victim, the board may grant parole or work release to an
8 applicant pursuant to the procedures under Code chapter 906.
9 The bill also requires the board of parole to establish the
10 parole or work release term at the time of granting parole or
11 work release.

12 The bill provides that the decision to grant or deny parole
13 or work release shall be in writing, setting forth the findings
14 and reasons for granting or denying parole or work release
15 based upon the factors enumerated in the bill.

16 The bill provides that a decision of the board granting or
17 denying parole or work release is a contested case subject
18 to judicial review pursuant to Code chapter 17A. Current law
19 provides that parole decisions are not a contested case and are
20 not subject to judicial review pursuant to Code chapter 17A.

21 The bill provides that a person is eligible to submit an
22 application every two years to the person's counselor.